

REMARKS

This communication is considered fully responsive to the Office action mailed September 13, 2005. Claims 1-20 were examined and stand rejected. Claims 1, 2, 5, 14 and 17 are hereby amended. No claims are cancelled or added. Respectfully requested are reexamination and reconsideration of claims 1-20.

Claim Objections

Claims 14 and 17 stand objected to for certain informalities identified in the Office Action. Applicant has hereby amended claims 14 and 17 to include the suggestions of the Examiner, thus these objections have been obviated and can be withdrawn. Action to this end is respectfully requested.

Claim Rejections – 35 U.S.C. §103

Claims 1 and 3-6 stand rejected under 35 U.S.C. §103(a) as being purportedly unpatentable over the U.S. Patent, No. 2,112,866, to Segal (hereafter "Segal") in view of Thorn, U.S. Patent No. 5,983,026 (hereafter "Thorn").

Claims 1-4 and 6-20 stand rejected under 35 U.S.C. §103(a) as being purportedly unpatentable over de la Rocha, U.S. Patent No. 5,330,056 (hereafter "de la Rocha") in view of Stoll, U.S. Patent No. 1,163,183 (hereafter "Stoll").

Claim 5 stands rejected under 35 USC 103(a) as being purportedly unpatentable over de la Rocha in view of Stoll, and further in view of Avery, U.S. Patent, No. 102,471 (hereafter "Avery").

The Applicant respectfully traverses the rejections.

In addressing the first rejection cited above, i.e., of claim 1 and 3-6 over Segal in view of Thorn, Applicant notes merely that claim 1 has been hereby amended to incorporate the "translational" concept therein which obviates this rejection without need for addressing any of the other contentions of this rejection raised in the Office Action of September 13. Applicant thus respectfully requests withdrawal of this rejection explicitly without admission of any veracity of the accuracy or adequacy of the contentions thereof.

For the next rejection, i.e., of claims 1-4 and 6-20 over de la Rocha in view of Stoll, Applicant respectfully notes that presently-pending independent claims 1, 17 and 18 recite either a rigid mechanism, or a rigid camming means/member on the closing/covering means/lid, the rigid camming means/member creating a camming effect in its movable contact with said support means/member to cammingly move the support means/member. And, in this respect, Applicant agrees with the Office Action that de la Rocha teaches no mechanism like this (de la Rocha teaches a non-rigid ribbon for lifting a support means, the ribbon having nothing to do with the opening of the lid).

However, Applicant respectfully notes that Stoll does not cure this failure of de la Rocha.

As a first point, the law of obviousness requires that "there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings." See e.g., MPEP 2143, *inter alia*. There is no suggestion or motivation to modify the references to provide a mechanism of any type other than a ribbon to de la Rocha, even if Stoll does teach an *arguendo* appropriate mechanism in its particular setting. There is thus no suggestion or motivation to thereby result in a device such as Applicant's here. De la Rocha has a completely operable, manual device which expects no modification; why would de la Rocha's device expect a complete makeover to include a lid-operated lift mechanism? There is no such expectation, thus, no suggestion for the modification.

Moreover, there is no reasonable expectation of success coming from either of these references for such a mechanism modification. See e.g., MPEP 2143.01 and 2143.02, *inter alia*. De la Rocha teaches a device with complete success without a lid-operated lift mechanism, so no further expectation of success would be evident from the teaching of de la Rocha. Stoll also does not go so far as suggest that its lift mechanism be retrofitted on any other device to create any expectation of success therefor.

Still moreover, a combination of references cannot render the combined process/apparatus inoperative, or change the principle of operation thereof, or render it less than satisfactory for its original purpose. See MPEP 2143.01. For the reasons given, such would be the case in any asserted combination of de la Rocha with Stoll. The non-lid-operated de la Rocha soft ribbon activation would be completely changed in the principle of operation thereof if substituted with a mechanism such as that in Stoll. Thus, the combination is improper here and the rejection based thereon must be withdrawn.

Thus, there is no suggestion for combination of de la Rocha with Stoll. This remains true regardless de la Rocha's teachings about cotton swabs. Thus, Applicant's claims 1-4 and 6-20 are non-obvious over de la Rocha in view of Stoll, the rejections thereof rendered obviated and/or traversed. The rejections should therefore be withdrawn. Action to this end is respectfully requested.

Claim 5 has been rejected on the combination of Avery with de la Rocha and Stoll. The concept of a device accommodating double-headed swabs is not taught nor suggested by any of these references, either alone or in combination. Note, de la Rocha is adapted only for single-headed swabs kept in individual compartments, and more importantly, de la Rocha is specifically not extendible away from this. The problem that the de la Rocha device was intended to address was the containing of swabs used in the application of makeup so that those swabs would not contact any other items, whether the purse, or the container or each other, so that there would be no transfer of the makeup from that swab to any of the other items. Thus, the swab container of de la Rocha was specifically designed to have isolated, single-headed swabs to be disposed in their own individual compartments. Any arguable modification of de la Rocha away from this would improperly render the combined process/apparatus inoperative, or change the

principle of operation thereof, or render it less than satisfactory for its original purpose; contrary to MPEP 2143.01. Thus, neither Avery nor Stoll can be combined with de la Rocha to create a container like Applicant's here.


Moreover, claim 5 has been amended (by its new dependence from now amended claim 2) to further specify that the double-headed swabs are bundled such that de la Rocha is even more distinctively no longer applicable hereto. This rejection has thus been obviated/traversed so that it can also be removed. Action to this end is respectfully requested.

The Applicant respectfully requests entry of the amendments hereof and reconsideration of the outstanding objections and/or rejections and issuance of a notice of allowance for claims 1-20 in this matter.

Respectfully Submitted,

Dated: January 13, 2006

By: _____


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